

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

IN THE MATTER OF:)
)
THE CPS/MADISON SUPERFUND SITE)
)
ARNET REALTY COMPANY,)
MADISON INDUSTRIES, INC., and)
OLD BRIDGE CHEMICALS, INC.)
) U.S. EPA Index No.
RESPONDENTS.) II-CERCLA-02-2015-2027
)
Proceeding Under Sections 104, 107, and)
122 of the Comprehensive)
Environmental Response, Compensation,)
and Liability Act as amended)
(42 U.S.C. §§ 9604, 9607, and 9622).)
)
)
)

ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT
FOR REMEDIAL INVESTIGATION AND FEASIBILITY STUDY

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I. INTRODUCTION

1. This Administrative Settlement Agreement and Order on Consent ("Settlement Agreement") is entered into voluntarily by the United States Environmental Protection Agency ("EPA") and the above-captioned Respondents ("Respondents"). The Settlement Agreement concerns the preparation of, performance of, and reimbursement for all costs incurred by EPA in connection with a Remedial Investigation and Feasibility Study for Operable Unit 3 ("RI/FS") at the CPS/Madison Superfund Site ("Site") located in the Borough of Old Bridge, Middlesex County, New Jersey.

II. JURISDICTION

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, ("CERCLA") as amended, 42 U.S.C. §§ 9604, 9607 and 9622. This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2926 (1987), and further delegated to the Director of the Emergency and Remedial Response Division, Region II, on November 23, 2004 by EPA Delegation No. 14-14-C.

3. In accordance with Sections 104(b)(2) and 122(j)(1) of CERCLA, 42 U.S.C. §§ 9604(b)(2) and 9622(j)(1), EPA notified the United States Department of the Interior and the National Oceanic and Atmospheric Administration on November 13, 2014, of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under Federal trusteeship.

4. EPA and Respondents recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Respondents in accordance with this Settlement Agreement do not constitute an admission of any liability. Respondents do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of fact, conclusions of law and determinations in Section VI of this Settlement Agreement. Respondents agree to comply with and be bound by the terms of this Settlement Agreement and further agree that they will not contest the basis or validity of this Settlement Agreement or its terms.

III. PARTIES BOUND

5. This Settlement Agreement applies to and is binding upon EPA and upon Respondents and their successors and assigns. Any change in ownership or corporate status of any Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondents' responsibilities under this Settlement Agreement. Respondents are jointly and severally responsible for carrying out all activities required by this Settlement Agreement. Compliance or noncompliance by one or more Respondents with any provision of this Settlement Agreement shall not excuse or justify noncompliance by any other Respondents.

6. Respondents shall ensure that their contractors, subcontractors, and representatives receive a copy of this Settlement Agreement and comply with this Settlement Agreement. Respondents shall be responsible for any noncompliance with this Settlement Agreement.

7. The undersigned representative of each Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to execute and legally bind that Respondent to this Settlement Agreement.

IV. DEFINITIONS

8. Unless otherwise expressly provided herein, terms used in this Settlement Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or in the Appendices attached hereto and incorporated hereunder, the following definitions shall apply:

A. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §9601, et seq.

B. "Contractor" shall mean the company, companies or individuals retained by Respondents to perform any of the Work required by this Settlement Agreement.

C. "Day" shall mean a calendar day unless otherwise expressly stated. "Working day" shall mean a day consisting of hours 8 a.m. to 6 p.m., other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or Federal Holiday, the period shall run until the close of business on the next working Day.

D. "EPA" or "Agency" shall mean the United States Environmental Protection Agency and any successor department or agency of the United States.

E. "Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Settlement Agreement, verifying the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, Agency for Toxic Substances and Disease Registry ("ATSDR") costs the costs incurred pursuant to Paragraph 59 (costs and attorney fees and any monies paid to secure access, including the amount of just compensation), Paragraph 45 (Emergency Response), and Paragraph 90 (Work Takeover) incurred after the Effective Date. Future Response Costs shall also include all Interim Response Costs.

F. "Hazardous Substances" shall mean any substance (or mixture containing any hazardous substance) that falls within the definition of a "hazardous substance," as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

G. "Institutional Controls" shall mean non-engineered instruments, such as administrative and/or legal controls, that help to minimize the potential for human exposure to contamination and/or protect the integrity of a remedy by limiting land and/or resource use. Examples of institutional controls include easements and covenants, zoning restrictions, special building permit requirements, and well drilling prohibitions.

H. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually, in accordance with 42 U.S.C. § 9607(a). The applicable rate of

interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

I. "Interim Response Costs" shall mean all costs, including direct and indirect costs, (a) paid by the United States in connection with Operable Unit 3 between March 31, 2014 and the Effective Date, or (b) incurred prior to the Effective Date but paid after that date.

J. "Madison Property" shall mean the portion of the real property on which Madison Industries, Inc., and Old Bridge Chemicals operate located at Block 6303, Lots 9 and 11, between Old Water Works Road and a fence line on the southerly end of the area of such operations, such fence line following, approximately, a line represented by three points beginning at 40.4329849 degrees Latitude, -074.3277085 degrees Longitude; to 40.4318974 degrees Latitude, -074.3276033 degrees Longitude; and ending at 40.4314399 degrees Latitude, -074.3287667 degrees Longitude.

J. "NJDEP" shall mean the New Jersey Department of Environmental Protection.

K. "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

L. "Operable Unit 3" shall mean soil at the Madison Property and any other soils where contamination from the Madison Property has come to be located, and sediment and surface water in Prickett's Pond and sediment and surface water in Prickett's Brook as far downstream as necessary to delineate contamination from the Madison Property, excluding portions of Prickett's Brook upstream of the Madison Property.

L. "Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent, the SOW, all appendices attached hereto (listed in Section XXVIII) and all documents incorporated by reference into this document including without limitation EPA-approved submissions by Respondent. EPA-approved submissions by Respondents (other than progress reports) are incorporated into and become a part of the Settlement Agreement upon approval by EPA. In the event of

conflict between this Settlement Agreement and any appendix or other incorporated documents, this Settlement Agreement shall control.

M. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral.

N. "Parties" shall mean the EPA and Respondents.

O. "Past Response Costs" shall mean all unreimbursed costs solely related to Operable Unit 3, including, but not limited to, direct and indirect costs, that EPA paid at or in connection with Operable Unit 3 from October 21, 2005 through March 31, 2014, plus interest on all such costs which has accrued pursuant to 42 U.S.C. § 9607(a) through such date.

P. "Project Coordinator" shall mean the person designated by Respondent who shall be charged with the duty of being at all times knowledgeable of the performance of all work performed pursuant to this Settlement Agreement.

Q. "Respondents" shall mean Arnet Realty Company, Madison Industries, Inc., and Old Bridge Chemicals, Inc.

R. "Section" shall mean a portion of this Order identified by a Roman numeral.

S. "Site" shall mean the CPS/Madison Superfund Site, located on Old Water Works Road in Old Bridge, New Jersey, and any areas where contamination from the Site has come to be located and depicted generally on the map attached as Appendix B.

T. "Statement of Work" or "SOW" shall mean the Statement of Work for development of a RI/FS for Operable Unit 3, as set forth in Appendix A to this Settlement Agreement. The Statement of Work is incorporated into this Settlement Agreement and is an enforceable part of this Settlement Agreement as are any modifications made thereto in accordance with this Settlement Agreement.

U. "Waste Material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33)

of CERCLA, 42 U.S.C. § 9601(33); and (3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

V. "Work" shall mean all activities Respondents are required to perform under this Settlement Agreement, except those required by Section XV (Retention of Records).

V. STATEMENT OF PURPOSE

9. In entering into this Settlement Agreement, the objectives of EPA and Respondents are: (a) to determine the nature and extent of contamination and any threat to the public health, welfare, or the environment caused by the release or threatened release of hazardous substances, pollutants or contaminants at or from the Site, by conducting a Remedial Investigation ("RI") for the OU3 portion of the Site as more specifically set forth in the Statement of Work ("SOW") attached as Attachment A to this Settlement Agreement; (b) to identify and evaluate remedial alternatives to prevent, mitigate or otherwise respond to or remedy any release or threatened release of hazardous substances, pollutants, or contaminants at or from OU3 portions of the Site, by conducting a Feasibility Study ("FS") for the OU3 portion of the Site as more specifically set forth in the SOW in Attachment A to this Settlement Agreement; and c) to recover response and oversight costs incurred by EPA with respect to this Settlement Agreement.

10. The Work conducted under this Settlement Agreement is subject to approval by EPA and shall provide all appropriate and necessary information to assess OU3 conditions and evaluate alternatives to the extent necessary to select a remedy that will be consistent with CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300 ("NCP"). Respondents shall conduct all Work under this Settlement Agreement in compliance with CERCLA, the NCP, and all applicable EPA guidances, policies, and procedures.

VI. EPA's FINDINGS OF FACT AND CONCLUSIONS OF LAW

11. The Site is located on approximately 35 acres of land on Old Water Works Road, in Old Bridge Township, Middlesex County, New Jersey. The Site includes three manufacturing facilities under separate ownership, the CPS Chemical Company facility, the Madison Industries, Inc. facility and the Old Bridge Chemicals facility. The CPS Chemical Company facility is

now owned by BASF Corporation (formerly known as Ciba Specialty Chemicals Corporation). Madison Industries, Inc., Old Bridge Chemicals and Arnet Realty Co. (which owns the real property on which Madison Industries and Old Bridge Chemicals operate) are affiliated companies. The Site consists of property listed as Block 6303, Lots 10 and 11 on the tax maps of the Township of Old Bridge, and property in the Perth Amboy-owned Runyon Watershed. The Site is bordered to the northwest by Old Water Works Road, to the south and southwest by the City of Perth Amboy property, and to the east by a field, across which lie other industrial properties.

12. Madison Industries, Inc. (formerly known as Food Additives, Inc.) has been in operation at its current location since 1967. Madison Industries, Inc. manufactures inorganic chemicals, primarily zinc salts that are used in fertilizers, pharmaceuticals, and food additives. Old Bridge Chemicals began operations in 1971, producing copper chemicals and zinc sulfate. The CPS Chemical Company began operation at its facility in 1969, and manufacturing at this facility ceased in 2001. Several organic chemicals were manufactured and processed at this facility, including alcohols, esters and monomers for water treatments.

13. Between 1970 and 1979 storage tank ruptures at the Madison facility resulted in nine spills of zinc sulfate and zinc chloride solutions totaling about 80,000 gallons.

14. In 1971, 6 shallow wells belonging to the City of Perth Amboy had to be shut down due to the detection of inorganic contaminants (metals). In 1973, an additional 25 shallow wells had to be shut down because of high levels of zinc, cadmium and lead. Monitoring well data collected in 1981 and 1982 identified a plume of volatile organic and inorganic contaminants in the groundwater emanating from the CPS and Madison facilities. Groundwater data collected in 2003 identified a plume of volatile organic contaminants in the groundwater emanating from the Evor Phillips Leasing Site, an NPL site upgradient from the Site.

15. On December 1, 1982, the CPS/Madison Site was proposed for inclusion on the National Priorities List ("NPL"). On September 1, 1983 the Site was formally placed on the NPL, with NJDEP designated as the lead agency for directing the investigation and cleanup of the Site.

16. On June 14, 1983, the Superior Court of New Jersey entered final judgment in litigation captioned State of New Jersey v. CPS Chemical et al. On April 27, 1988, the Superior Court, Middlesex County, issued an order amending the June 14, 1983 Judgment, which approved an alternate remedial plan for groundwater contamination at the Site. On July 2, 1992, the Superior Court of New Jersey entered an order modifying the April 27, 1988 Order Amending the Judgment of June 14, 1983, consented to by Arnet Realty. Under the direction and control of NJDEP, Madison and CPS were tasked to implement a groundwater remediation program. The case was dismissed by orders entered April 4, 1997 and June 29, 2000.

17. On September 10, 1992, Madison and CPS entered into separate administrative orders with NJDEP, pursuant to State laws, for each to perform an RI/FS to determine the nature and extent of potential source areas of contamination, including soils and sediment contamination at their respective facilities, and to identify potential treatment technologies.

18. Groundwater and soil contaminants found at the Site during the RI/FS include, but are not limited to, chlorobenzene, benzene, methylene chloride, ethylbenzene, 1,1,2,2, tetrachloroethane, 1,2 dichloroethane, 1,2 dichloroethylene, zinc, lead, cadmium, and copper.

19. By letter dated October 8, 2003, NJDEP requested that EPA assume lead agency responsibility for the CPS/Madison Site.

20. The conditions described in Paragraph 13, 14, and 18 constitute a "release," as defined in Section 101(22) of CERCLA, 42 U.S.C. §9601(22).

21. Exposure to the various hazardous substances present at the Site by direct contact, inhalation, or ingestion may cause a variety of adverse human health effects.

22. The continuing release(s) of hazardous substances present at the Site may continue to impact the Perth Amboy Watershed, the environment, and surrounding residents and businesses.

23. The Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

24. Wastes and constituents thereof at the Site, sent to the Site, disposed of at the Site, and/or transported to the Site identified in Paragraph 13, 14 and 18 are "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), or constitute "any pollutant or contaminant" that may present an imminent and substantial danger to public health or welfare under Section 104(a)(1) of CERCLA.

25. The presence of hazardous substances at the Site or the past, present or potential migration of hazardous substances currently located at or emanating from the Site, constitute actual and/or threatened "releases" from the facility as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

26. Respondents are "person[s]" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

27. Respondents are responsible parties under Sections 104, 107 and 122 of CERCLA, 42 U.S.C. §§ 9604, 9607 and 9622.

a. Each Respondent is a person who either generated some of the hazardous substances found at the Site, is a person who at the time of disposal of any hazardous substances owned or operated the Site, or is a person who arranged for disposal or transport for disposal of some of the hazardous substances at the Site. Respondent therefore may be liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

b. Respondent Arnet Realty Company is the "owner" of a portion of the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

c. Respondent Madison Industries, Inc. is the "owner" and/or "operator" of a portion of the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

d. Respondent Old Bridge Chemicals, Inc. is the "owner" and/or "operator" of a portion of the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

28. The actions required by this Settlement Agreement are necessary to protect the public health, welfare or the environment, are in the public interest, 42 U.S.C. § 9622(a), are consistent with CERCLA and the NCP, 42 U.S.C. §§ 9604(a)(1), 9622(a), and will expedite effective remedial action and minimize litigation, 42 U.S.C. § 9622(a).

29. EPA has determined that Respondents are qualified to conduct the RI/FS within the meaning of Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), and will carry out the Work properly and promptly, in accordance with Sections 104(a) and 122(a) of CERCLA, 42 U.S.C. §§ 9604(a) and 9622(a), if Respondents comply with the terms of this Settlement Agreement.

VII. NOTICE

30. By providing a copy of this Settlement Agreement to the State of New Jersey ("State"), EPA is notifying the State that this Settlement Agreement is being issued and that EPA is the lead agency for coordinating, overseeing, and enforcing the response action required by the Settlement Agreement.

VIII. SETTLEMENT AGREEMENT AND ORDER

31. Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby Ordered and Agreed that Respondent shall comply with all provisions of this Settlement Agreement, including, but not limited to, all Appendices to this Settlement Agreement and all documents incorporated by reference into this Settlement Agreement.

IX. DESIGNATION OF CONTRACTORS AND PROJECT COORDINATORS

32. Selection of Contractors, Personnel. All Work performed under this Settlement Agreement shall be under the direction and supervision of qualified personnel. Within 30 days of the Effective Date of this Settlement Agreement, and before the Work outlined below begins, Respondents shall notify EPA in writing of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants and laboratories to be used in carrying out such Work. With respect to any proposed contractor, Respondents shall demonstrate that the proposed contractor has a quality system which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental

Technology Programs," (American National Standard, January 5, 1995, or most recent version), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001 or subsequently issued guidance) or equivalent documentation as determined by EPA. The qualifications of the persons undertaking the Work for Respondents shall be subject to EPA's review, for verification that such persons meet minimum technical background and experience requirements. This Settlement Agreement is contingent on Respondents' demonstration to EPA's satisfaction that Respondents are qualified to perform properly and promptly the actions set forth in this Settlement Agreement. If EPA disapproves in writing of any person's technical qualifications, Respondents shall notify EPA of the identity and qualifications of the replacements within 30 days of the written notice. If EPA subsequently disapproves of the replacement, EPA reserves the right to terminate this Settlement Agreement and to conduct a complete RI/FS, and to seek reimbursement for costs and penalties from Respondents. During the course of the RI/FS, Respondents shall notify EPA in writing of any changes or additions in the personnel used to carry out such Work, providing their names, titles, and qualifications. EPA shall have the same right to disapprove changes and additions to personnel as it has hereunder regarding the initial notification.

33. The Project Coordinator for Respondents shall be Bruce Fishman, who shall be responsible for administration of all actions by Respondents required by this Settlement Agreement. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site Work. Respondents shall have the right to change their Project Coordinator, subject to EPA's right to disapprove. Respondents shall notify EPA 14 days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notification. EPA retains the right to disapprove of the newly designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number and qualifications within 14 days following EPA's disapproval. Receipt by Respondents' Project Coordinator of any notice or communication from EPA relating to this Settlement Agreement shall constitute receipt by Respondents.

34. EPA has designated John Osolin of the New Jersey Remediation Branch, Region II, as its Project Coordinator. EPA will notify Respondents of a change of its designated Project Coordinator. Except as otherwise provided in this Settlement Agreement, Respondents shall send all submissions required by this Settlement Agreement by certified mail, return receipt requested, or by UPS or Federal Express, or electronically as approved by EPA, to the Project Coordinator at:

7 copies:	ATTN: Site Remedial Project Manager
(including	New Jersey Remediation Branch
1 unbound	Emergency and Remedial Response Division
copy)	U.S. Environmental Protection Agency,
	Region II
	290 Broadway, 19th Floor
	New York, New York 10007-1866
	E-mail: Osolin.John@epa.gov

EPA's Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager ("RPM") and On-Scene Coordinator ("OSC") by the NCP. In addition, EPA's Project Coordinator shall have the authority consistent with the NCP, to halt any Work required by this Settlement Agreement, and to take any necessary response action when he determines that conditions at the Site may present an immediate endangerment to public health or welfare or the environment. EPA's Project Coordinator shall have the authority to approve or disapprove, in writing, any written request Respondents may make for extensions of deadlines for deliverables set forth in this Settlement Agreement. The absence of the EPA Project Coordinator from the area under study pursuant to this Settlement Agreement shall not be cause for the stoppage or delay of Work.

36. EPA shall arrange for a qualified person to assist in its oversight and review of the conduct of the RI/FS, as required by Section 104(a) of CERCLA, 42 U.S.C. Section 9604(a). Such person shall have the authority to observe Work and make inquiries in the absence of EPA, but not to modify the RI/FS Work Plan.

X. WORK TO BE PERFORMED

37. Respondents shall submit to EPA a Site Characterization Summary Report and an RI/FS Work Plan as directed in the SOW. Respondents shall implement the RI/FS Work Plan in accordance

with the provisions of this Settlement Agreement, the SOW, CERCLA, the NCP and EPA guidance, including, but not limited to the "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" (OSWER Directive # 9355.3-01, October 1988 or subsequently issued guidance), "Guidance for Data Useability in Risk Assessment" (OSWER Directive #9285.7-05, October 1990 or subsequently issued guidance), and guidance referenced therein, and guidances referenced in the SOW, as may be amended or modified by EPA. The RI shall consist of collecting data to characterize site conditions, determining the nature and extent of the contamination at or from the OU3 portion of the Site, assessing risk to human health and the environment and conducting treatability testing as necessary to evaluate the potential performance and cost of the treatment technologies that are being considered. The FS shall determine and evaluate (based on treatability testing, where appropriate) alternatives for remedial action to prevent, mitigate or otherwise respond to or remedy the release or threatened release of hazardous substances, pollutants, or contaminants at or from the OU3 portion of the Site. The alternatives evaluated must include, but shall not be limited to, the range of alternatives described in the NCP, and shall include remedial actions that utilize permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable. In evaluating the alternatives, Respondents shall address the factors required to be taken into account by Section 121 of CERCLA, 42 U.S.C. § 9621, and Section 300.430(e) of the NCP, 40 C.F.R. § 300.430(e). Upon request by EPA, Respondents shall submit in electronic form all portions of any report or other deliverable Respondents are required to submit pursuant to provisions of this Settlement Agreement.

38. Respondents shall perform all RI/FS tasks in the SOW. Respondents need not perform RI/FS tasks for organic contamination in any media other than Operable Unit 3 at the Site.

39. Respondents may incorporate data and analyses previously submitted to the State of New Jersey and EPA into its submissions under this Settlement Agreement, subject to EPA review and approval or disapproval.

40. Upon receipt of the draft FS report, EPA will evaluate, as necessary, the estimates of the risk to the public and

environment that are expected to remain after any particular remedial alternative has been completed and will evaluate the durability, reliability and effectiveness of any proposed Institutional Controls.

41. Modification of the RI/FS Work Plan.

a. If at any time during the RI/FS process, Respondents identify a need for additional data, Respondents shall submit a memorandum documenting the need for additional data to the EPA Project Coordinator within 30 days of identification. EPA in its discretion will determine whether the additional data will be collected by Respondents and whether it will be incorporated into reports and deliverables.

b. In the event of unanticipated or changed circumstances at the Site, Respondents shall notify the EPA Project Coordinator by telephone within 24 hours of discovery of the unanticipated or changed circumstances. In addition to the authorities in the NCP, in the event that EPA determines that the immediate threat or the unanticipated or changed circumstances warrant changes in the RI/FS Work Plan, EPA shall modify or amend the RI/FS Work Plan in writing accordingly. Respondents shall perform the RI/FS Work Plan as modified or amended.

c. EPA may determine that in addition to tasks defined in the initially approved RI/FS Work Plan, other additional Work may be necessary to accomplish the objectives of the RI/FS. Respondents agree to perform these response actions in addition to those required by the initially approved RI/FS Work Plan, including any approved modifications, if EPA determines that such actions are necessary for a complete RI/FS.

d. Respondents shall confirm their willingness to perform the additional Work in writing to EPA within 10 days of receipt of the EPA request. If Respondents object to any modification determined by EPA to be necessary pursuant to this Paragraph, Respondents may seek dispute resolution pursuant to Section XVI (Dispute Resolution). The SOW and/or RI/FS Work Plan shall be modified in accordance with the final resolution of the dispute.

e. Respondents shall complete the additional Work according to the standards, specifications, and schedule set forth or approved by EPA in a written modification to the RI/FS

Work Plan or written RI/FS Work Plan supplement. EPA reserves the right to conduct the Work itself at any point, to seek reimbursement from Respondents, and/or to seek any other appropriate relief.

f. Nothing in this Paragraph shall be construed to limit EPA's authority to require performance of further response actions at the Site.

42. Off-Site Shipment of Waste Material. Respondents shall, prior to any off-site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to EPA's Designated Project Coordinator. However, this notification requirement shall not apply to any off-site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

a. Respondents shall include in the written notification the following information: (1) the name and location of the facility to which the Waste Material is to be shipped; (2) the type and quantity of the Waste Material to be shipped; (3) the expected schedule for the shipment of the Waste Material; and (4) the method of transportation. Respondent shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

b. The identity of the receiving facility and state will be determined by Respondents following the award of the contract for the RI/FS. Respondent shall provide the information required by Subparagraph 42.a and 42.c as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

c. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Respondents shall obtain EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondents shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the

statutory provision and regulation cited in the preceding sentence.

d. Waste Materials generated in the normal course of business at the portion of the Site owned or controlled by Madison is excluded from the requirements of this Paragraph 42(a) - (c).

43. Meetings. Respondents shall make presentations at, and participate in, meetings at the request of EPA during the initiation, conduct, and completion of the RI/FS. In addition to discussion of the technical aspects of the RI/FS, topics will include anticipated problems or new issues. Meetings will be called at EPA's discretion and scheduled mutually by the EPA and Respondents.

44. Progress Reports. In addition to the deliverables set forth in this Settlement Agreement, Respondents shall provide to EPA monthly progress reports by the 10th day of the following month. At a minimum, with respect to the preceding month, these progress reports shall (1) describe the actions which have been taken to comply with this Settlement Agreement during that month, (2) include all results of sampling and tests and all other data received by Respondents, (3) describe Work planned for the next two months with schedules relating such Work to the overall project schedule for RI/FS completion, and (4) describe all problems encountered and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays.

45. Emergency Response and Notification of Releases.

a. In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action. Respondents shall take these actions in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondents shall also immediately notify the Emergency Spill Reporting Hotline at (732) 548-8730 and the EPA Project Coordinator or, in the event of his/her unavailability, the Chief of the Central New

Jersey Remediation Section of the Emergency and Remedial Response Division of EPA Region II at (212)637-4410 of the incident or Site conditions. In the event that Respondents fail to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Respondents shall reimburse EPA for all costs of the response action not inconsistent with the NCP pursuant to Section XIX (Payment of Response Costs).

b. In addition, in the event of any release of a hazardous substance from the Site, Respondent shall immediately notify the EPA Project Coordinator, the Chief of the Central New Jersey Remediation Section of the Emergency and Remedial Response Division of EPA Region II by telephone (212-637-4410) and the National Response Center at (800) 424-8802. Respondents shall submit a written report to EPA within 10 days after each release from the OU3 portion of the Site, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, et seq.

XI. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

46. After review of any plan, report or other item that is required to be submitted for approval pursuant to this Settlement Agreement, EPA shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that Respondents modify the submission; or (e) any combination of the above. However, EPA shall not modify a submission without first providing Respondents at least one notice of deficiency and an opportunity to cure within 14 days, except where to do so would cause serious disruption to the Work or where previous submission(s) have been disapproved due to material defects.

47. In the event of approval, approval upon conditions, or modification by EPA, pursuant to Subparagraph 46(a), (b), (c) or (e), Respondents shall proceed to take any action required by the plan, report or other item, as approved or modified by EPA subject only to its right to invoke the Dispute Resolution procedures set forth in Section XVI (Dispute Resolution) with

respect to the modifications or conditions made by EPA. Following EPA approval or modification of a submittal or portion thereof, Respondents shall not thereafter alter or amend such submittal or portion thereof unless directed by EPA. In the event that EPA modifies the submission to cure the deficiencies pursuant to Subparagraph 46(c) and the submission had a material defect, EPA retains the right to seek stipulated penalties, as provided in Section XVII (Stipulated Penalties).

48. Resubmission of Plans.

a. Upon receipt of a notice of disapproval, Respondents shall, within 14 days or such longer time as specified by EPA in such notice or the Statement of Work attached in Appendix A, correct the deficiencies and resubmit the plan, report, or other item for approval. Any stipulated penalties applicable to the submission, as provided in Section XVII, shall accrue during the 14-day period or otherwise specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 49 and 50.

b. Notwithstanding the receipt of a notice of disapproval, Respondents shall proceed to take any action required by any non-deficient portion of the submission, unless otherwise directed by EPA. Implementation of any non-deficient portion of a submission shall not relieve Respondents of any liability for stipulated penalties under Section XVII (Stipulated Penalties).

c. Respondents shall not proceed further with any subsequent activities or tasks until receiving EPA approval, approval on condition or modification of the following deliverables: RI/FS Work Plan and Sampling and Analysis Plan, Draft Remedial Investigation Report, Treatability Testing Work Plan, Sampling and Analysis Plan, and Draft Feasibility Study Report. While awaiting EPA approval on these deliverables, Respondents shall proceed with all other tasks and activities which may be conducted independently of these deliverables, in accordance with the schedule set forth under this Settlement Agreement.

d. For all remaining deliverables not listed above in subparagraph 48.c., Respondents shall proceed with all subsequent tasks, activities and deliverables without awaiting EPA approval on the submitted deliverable. EPA reserves the right to stop

Respondents from proceeding further, either temporarily or permanently, on any task, activity or deliverable at any point during the RI/FS.

49. If EPA disapproves a resubmitted plan, report or other deliverable, or portion thereof, EPA may again direct Respondents to correct the deficiencies. EPA shall also retain the right to modify or develop the plan, report or other deliverable. Respondents shall implement any such plan, report, or deliverable as corrected, modified or developed by EPA, subject only to their right to invoke the procedures set forth in Section XVI (Dispute Resolution).

50. If upon resubmission, a plan, report, or other deliverable is disapproved or modified by EPA due to a material defect, Respondents shall be deemed to have failed to submit such plan, report, or other deliverable timely and adequately unless Respondents invoke the dispute resolution procedures in accordance with Section XVI (Dispute Resolution) and EPA's action is revoked or substantially modified pursuant to a Dispute Resolution decision issued by EPA or superseded by an agreement reached pursuant to that Section. The provisions of Section XVI (Dispute Resolution) and Section XVII (Stipulated Penalties) shall govern the implementation of the Work and accrual and payment of any stipulated penalties during Dispute Resolution. If EPA's disapproval or modification is not otherwise revoked, substantially modified or superseded as a result of a decision or agreement reached pursuant to the Dispute Resolution process set forth in Section XVI, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XVII.

51. In the event that EPA takes over some of the tasks, but not the preparation of the RI Report or the FS Report, Respondents shall incorporate and integrate information supplied by EPA into the final reports.

52. All plans, reports, and other deliverables submitted to EPA under this Settlement Agreement shall, upon approval or modification by EPA, be incorporated into and enforceable under this Settlement Agreement. In the event EPA approves or modifies a portion of a plan, report, or other deliverable submitted to EPA under this Settlement Agreement, the approved or modified portion shall be incorporated into and enforceable under this Settlement Agreement.

53. Neither failure of EPA to expressly approve or disapprove of Respondents' submissions within a specified time period, nor the absence of comments, shall be construed as approval by EPA. Whether or not EPA gives express approval for Respondents' deliverables, Respondents are responsible for preparing deliverables acceptable to EPA.

XII. QUALITY ASSURANCE, SAMPLING, AND ACCESS TO INFORMATION

54. Quality Assurance. Respondents shall assure that Work performed, samples taken and analyses conducted conform to the requirements of the SOW, the Quality Assurance Project Plan ("QAPP") and guidances identified therein. Respondents will assure that field personnel used by Respondents are properly trained in the use of field equipment and in chain of custody procedures. Respondents shall only use laboratories which have a documented quality system that complies with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA.

55. Sampling.

a. All results of sampling, tests, modeling or other data (including raw data) generated by Respondent, or on Respondents' behalf, during the period that this Settlement Agreement is effective, shall be submitted to EPA in the next monthly progress report as described in Paragraph 44 of this Settlement Agreement. EPA will make available to Respondents validated data generated by EPA or submitted to EPA unless it is exempt from disclosure by any federal or state law or regulation.

b. Respondents shall verbally notify EPA at least 14 days prior to conducting significant field events as described in the SOW, RI/FS Work Plan or sampling and analysis plan. At EPA's verbal or written request, or the request of EPA's oversight assistant, Respondents shall allow split or duplicate samples to be taken by EPA (and its authorized representatives) of any samples collected in implementing this Settlement Agreement. All split samples of Respondents shall be analyzed by the methods identified in the QAPP.

56. Access to Information.

a. Respondents shall provide to EPA, upon request, copies of all documents and information within their possession or control or that of its contractors or agents relating to activities at the Site or to the implementation of this Settlement Agreement, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Respondents shall also make available to EPA, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

b. Respondents may assert business confidentiality claims covering part or all of the documents or information submitted to EPA under this Settlement Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when it is submitted to EPA, or if EPA has notified Respondents that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Respondents. Respondents shall segregate and clearly identify all documents or information submitted under this Settlement Agreement for which Respondents assert business confidentiality claims.

c. Respondents may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondents assert such a privilege in lieu of providing documents, they shall provide EPA with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the contents of the document, record, or information; and 6) the privilege asserted by Respondents. However, no documents, reports or other information created or generated pursuant to the

requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

d. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

57. In entering into this Settlement Agreement, Respondents waive any objections to any data gathered, generated, or evaluated by EPA, the State or Respondents in the performance or oversight of the Work that has been verified according to the quality assurance/quality control ("QA/QC") procedures required by the Settlement Agreement or any EPA-approved RI/FS Work Plans or Sampling and Analysis Plans. If Respondents object to any other data relating to the RI/FS, Respondents shall submit to EPA a report that specifically identifies and explains their objections, describes the acceptable uses of the data, if any, and identifies any limitations to the use of the data. The report must be submitted to EPA within 15 days of the monthly progress report containing the data.

XIII. SITE ACCESS AND INSTITUTIONAL CONTROLS

58. If the Site, or any other property where access is needed to implement this Settlement Agreement, is owned or controlled by Respondents, Respondents shall, commencing on the Effective Date, provide EPA, and its representatives, including contractors, with access to the property owned or controlled by Madison at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Settlement Agreement.

59. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain all necessary access agreements within 60 days after the Effective Date, or as otherwise specified in writing by the EPA Project Coordinator. Respondents shall immediately notify EPA if after using their best efforts they are unable to obtain such agreements. For purposes of this Paragraph, "best efforts" includes the payment of reasonable sums of money in consideration of access. Respondents shall describe in writing their efforts to obtain access. If Respondents cannot obtain access agreements,

effectuate the response actions described herein, using such means as EPA deems appropriate; or (ii) perform those tasks or activities with EPA contractors; or (iii) terminate the Settlement Agreement; or (iv) any combination of these options. Respondents shall reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XIX (Payment of Response Costs). If EPA performs those tasks or activities with EPA contractors and does not terminate the Settlement Agreement, Respondents shall perform all other activities not requiring access to that property. Respondents shall integrate the results of any such tasks undertaken by EPA into their plans, reports and other deliverables.

60. Notwithstanding any provision of this Settlement Agreement, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

XIV. COMPLIANCE WITH OTHER LAWS

61. Respondents shall comply with all applicable local, state and federal laws and regulations when performing the RI/FS. No local, state, or federal permit shall be required for any portion of any action conducted entirely on-site, including studies, if the action is selected and carried out in compliance with Section 121 of CERCLA, 42 U.S.C. § 9621. Where any portion of the Work is to be conducted off-site and requires a federal or state permit or approval, Respondents shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals. This Settlement Agreement is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

XV. RETENTION OF RECORDS

62. During the pendency of this Settlement Agreement and for a minimum of 10 years after commencement of construction of any remedial action, Respondents shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in their possession or control or which come into their possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Site, regardless of any

corporate retention policy to the contrary. Until 10 years after commencement of construction of any remedial action, Respondents shall also instruct their contractors and agents to preserve all documents, records, and information of whatever kind, nature or description relating to performance of the Work.

63. At the conclusion of this document retention period, Respondents shall notify EPA at least 90 days prior to the destruction of any such records or documents, and, upon request by EPA, Respondents shall deliver any such records or documents to EPA. Respondents may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondents assert such a privilege, they shall provide EPA with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or information; and 6) the privilege asserted by Respondents. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

64. Respondents hereby certify that to the best of their knowledge and belief, they have not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to their potential liability regarding the Site since entry of the Consent Decree (Civil Action No. 00-1294) on May 16, 2000 and that they have fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XVI. DISPUTE RESOLUTION

65. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Settlement Agreement. The Parties shall attempt to resolve any disagreements concerning this Settlement Agreement expeditiously and informally.

66. If Respondents object to any EPA action taken pursuant to this Settlement Agreement, including billings for Future Response Costs, they shall notify EPA in writing of their objection(s) within 14 days of such action, unless the objection(s) has/have been resolved informally. EPA and Respondents shall have 30 days from EPA's receipt of Respondents' written objection(s) to resolve the dispute (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA. Such extension may be granted verbally but must be confirmed in writing.

67. Any agreement reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by the Parties, be incorporated into and become an enforceable part of this Settlement Agreement. If the Parties are unable to reach an agreement within the Negotiation Period, an EPA management official at the Chief of the New Jersey Remediation Superfund Branch of the Emergency and Remedial Response Division, EPA Region II (hereinafter, the "Chief") level or higher will issue a written decision. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. Respondents' obligations under this Settlement Agreement shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondents shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs, and regardless of whether Respondents agree with the decision.

XVII. STIPULATED PENALTIES

68. Respondents shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 69 and 70 for failure to comply with any of the requirements of this Settlement Agreement specified below unless excused under Section XVIII (Force Majeure). "Compliance" by Respondents shall include completion of the Work under this Settlement Agreement or any activities contemplated under any RI/FS Work Plan or other plan approved under this Settlement Agreement identified below, in accordance with all applicable requirements of law, this Settlement Agreement, the SOW, and any plans or other documents approved by EPA pursuant to this Settlement Agreement and within the specified time schedules established by and approved under this Settlement Agreement.

69. For the following major deliverables, stipulated penalties shall accrue in the amount of \$1,000 per day, per violation, for the first seven days of noncompliance; \$2,000 per day, per violation, for the eighth (8th) through the fourteenth (14th) day of noncompliance; \$4,000 per day, per violation, for the fifteenth (15th) day through the thirtieth (30th) day; and \$5,000 per day, per violation for each day of noncompliance after thirty (30) days:

- A) An original and any revised RI/FS Work Plan;
- B) An original and any revised QAPP, or HSP;
- C) An original and any revised RI Report;
- D) An original and any revised Baseline Risk Assessment Report for; and
- E) An original and any revised FS Report.

70. For the following interim deliverables, stipulated penalties shall accrue in the amount of \$500 per day, per violation, for the first seven (7) days of noncompliance; \$1,000 per day, per violation, for the eighth (8th) through fourteenth (14th) day of noncompliance; \$2,000 per day, per violation, for the fifteenth (15th) day through the thirtieth (30th) day of noncompliance; and \$4,000 per day per violation for each day of noncompliance after thirty (30) days:

- A) An original and any revised Site Characterization Summary Report;
- B) An original and any revised Identification of Candidate Technologies Memorandum;
- C) An original and any revised Treatability Testing Statement of Work;
- D) An original and any revised Treatability Testing Work Plan, if required;
- E) An original and any revised Treatability Study, QAPP and/or HSP;

- F) An original and any revised Treatability Study Evaluation Report, if required;
- G) An original and any revised Pathway Analysis Report;
- H) Task VIII presentation and memorandum regarding Findings of RI, Remedial Action Objective, and Development and Preliminary Screening of Alternatives;
- I) Memorandum and Presentation regarding the draft FS Report; and,
- J) Certificate of Insurance.

71. For the monthly progress reports, payments pursuant to Section XIX, noncompliance with any schedules established under this Settlement Agreement or any other violations of this Settlement Agreement not specified above, stipulated penalties shall accrue in the amount of \$200 per day, per violation, for the first seven (7) days of noncompliance; \$1,000 per day, per violation, for the eighth (8th) through the fourteenth (14th) day of noncompliance; \$2,000 per day, per violation, for the fifteenth (15th) day through the thirtieth (30th) day; \$3,000 per day, per violation, for each day of noncompliance after thirty (30) days.

72. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 90 of Section XXI (Reservation of Rights by EPA), Respondents shall be liable for a stipulated penalty in the amount of \$250,000.

73. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: (1) with respect to a deficient submission under Section XI (EPA Approval of Plans and Other Submissions), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Respondents of any deficiency; and (2) with respect to a decision by the EPA Management Official designated in Paragraph 67 of Section XVI (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA Management Official

issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

74. Following EPA's determination that Respondents have failed to comply with a requirement of this Settlement Agreement, EPA may give Respondents written notification of the same and describe the noncompliance. EPA may send Respondents a written demand for the payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Respondents of a violation.

75. All penalties accruing under this Section shall be due and payable to EPA within 30 days of Respondents' receipt from EPA of a demand for payment of the penalties, unless Respondents invoke the dispute resolution procedures in accordance with Section XVI (Dispute Resolution). All payments to EPA under this Section shall indicate that the payment is for stipulated penalties, and shall be remitted via Electronic Funds Transfer ("EFT"), along with the following information, to EPA's Account as follows:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT Address = FRNYUS33
33 Liberty Street
New York, NY 10045
Name of Party making payment
EPA Index Number: CERCLA 02-2015-2027
Site/Spill Identifier Number: 0283
Field Tag 4200 of the Fedwire message should read "D
68010727 Environmental Protection Agency"

To ensure that a payment is properly recorded, a letter should be sent, within one week of the EFT, which references the date of the EFT, the payment amount, that the payment is for stipulated penalties, the name of the Site, the case Index number, and the name and address of the party making payment to the United States as specified in Paragraph 34 and also to:

cinwd_acctsreceivable@epa.gov, or to:

EPA Cincinnati Finance Office
26 W. Martin Luther King Drive

Cincinnati, Ohio 45268

76. The payment of penalties shall not alter in any way Respondent's obligation to complete performance of the Work required under this Settlement Agreement.

77. Penalties shall continue to accrue as provided in Paragraph 73 during any dispute resolution period, but need not be paid until 15 days after the dispute is resolved by agreement or by receipt of EPA's decision.

78. If Respondents fail to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Respondents shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 75.

79. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(1) of CERCLA, 42 U.S.C. § 9622(1), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that EPA shall not seek civil penalties pursuant to Section 122(1) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided herein, except in the case of willful violation of this Settlement Agreement or in the event that EPA assumes performance of a portion or all of the Work pursuant to Section XXI (Reservation of Rights by EPA), Paragraph 90. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

XVIII. FORCE MAJEURE

80. Respondents agree to perform all requirements of this Settlement Agreement within the time limits established under this Settlement Agreement, unless the performance is delayed by *force majeure*. For purposes of this Settlement Agreement, *force majeure* is defined as any event arising from causes beyond the control of Respondents or of any entity controlled by Respondents, including

but not limited to their contractors and subcontractors, which delays or prevents performance of any obligation under this Settlement Agreement despite Respondents' best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work or increased cost of performance.

81. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, Respondents shall notify EPA orally within forty-eight (48) hours of when Respondents first knew that the event might cause a delay. Within five (5) business days thereafter, Respondents shall provide to EPA in writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondents' rationale for attributing such delay to a *force majeure* event if they intend to assert such a claim; and a statement as to whether, in the opinion of Respondents, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to comply with the above requirements shall preclude Respondents from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.

82. If EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Settlement Agreement that are affected by the *force majeure* event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify Respondents in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify Respondents in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

XIX. PAYMENT OF RESPONSE COSTS

83. Payment of Past Response Costs.

a. Within 30 days after the Effective Date, Respondents shall pay to EPA \$50,506.93 for Past Response Costs. Payment shall be made to EPA by Electronics Funds Transfer ("EFT") along with the following information, to EPA's Account as follows:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT Address = FRNYUS33
33 Liberty Street
New York, NY 10045
Name of Party making payment
EPA Index Number: CERCLA 02-2015-2027
Site/Spill Identifier Number: 0283
Field Tag 4200 of the Fedwire message should read "D
68010727 Environmental Protection Agency"

To ensure that a payment is properly recorded, a letter should be sent, within one week of the EFT, which references the date of the EFT, the payment amount, that the payment is for response costs, the name of the Site, the case Index number, and the name and address of the party making payment to the United States as specified in Paragraph 34 and also sent to:

cinwd acctsreceivable@epa.gov, or to:

EPA Cincinnati Finance Office
26 W. Martin Luther King Drive
Cincinnati, Ohio 45268

b. The total amount to be paid by Respondents pursuant to Subparagraph 83.a. shall be deposited in the CPS/Madison Site Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

84. Payments of Future Response Costs.

a. Respondents shall pay EPA all Future Response Costs not inconsistent with the NCP. On a periodic basis, EPA will send

Respondents a bill requiring payment that includes a printout of cost data in EPA's financial management system, known as a SCORPIOS report, and a calculation of EPA's indirect costs. Respondent shall make all payments within 30 days of receipt of each bill requiring payment, except as otherwise provided in Paragraph 85 of this Settlement Agreement, by remitting the amount of those costs via EFT, along with the following information, to EPA's Account as follows:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT Address = FRNYUS33
33 Liberty Street
New York, NY 10045
Name of Party making payment
EPA Index Number: CERCLA 02-2015-2027
Site/Spill Identifier Number: 0283
Field Tag 4200 of the Fedwire message should read "D
68010727 Environmental Protection Agency"

To ensure that a payment is properly recorded, a letter should be sent, within one week of the EFT, which references the date of the EFT, the payment amount, that the payment is for response costs, the name of the Site, the case Index number, and the name and address of the party making payment to the United States as specified in Paragraph 34 and also sent to:

cinwd acctsreceivable@epa.gov, or to:

EPA Cincinnati Finance Office
26 W. Martin Luther King Drive
Cincinnati, Ohio 45268

b. The total amount to be paid by Respondent pursuant to Subparagraph 84a. shall be deposited in the CPS/Madison Site Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

85. Respondents may contest payment of any Future Response Costs under Paragraph 84 if they determine that EPA has made a mathematical error, if they believe EPA incurred excess costs as a

direct result of an EPA action that was inconsistent with the NCP, or if they believe EPA is seeking costs which are outside the definition of Future Response Costs. Such objection shall be made in writing within 30 days of receipt of the bill and must be sent to the EPA Project Coordinator. Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, Respondents shall within the 30 day period pay all uncontested Future Response Costs to EPA in the manner described in Paragraph 84. Simultaneously, Respondents shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of New Jersey and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Respondents shall send to the EPA Project Coordinator a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, Respondents shall initiate the Dispute Resolution procedures in Section XVI (Dispute Resolution). If EPA prevails in the dispute, within 5 days of the resolution of the dispute, Respondents shall pay the sums due (with accrued interest) to EPA in the manner described in Paragraph 84. If Respondents prevail concerning any aspect of the contested costs, Respondents shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to EPA in the manner described in Paragraph 84. Respondents shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XVI (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Respondents' obligation to reimburse EPA for its Future Response Costs.

Interest

86. If Respondents do not pay Past Response Costs within 30 days of the Effective Date or Future Response Costs within 30 days of Respondents' receipt of a bill, Respondents shall pay Interest on the unpaid balance of Past or Future Response Costs. The Interest on unpaid Past or Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue until the date of payment. If EPA receives a partial payment, Interest shall accrue on any unpaid balance. Payments of Interest made

under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondents' failure to make timely payments under this Section, including but not limited to, payments of stipulated penalties pursuant to Section XVII. Respondents shall make all payments required by this Paragraph in the manner described in Paragraph 84.

XX. COVENANT NOT TO SUE BY EPA

87. In consideration of the actions that will be performed and the payments that will be made by Respondents under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take administrative action against Respondents pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a) for the Work performed under this Settlement Agreement, and for recovery of Past Response Costs and Future Response Costs. This covenant not to sue shall take effect upon receipt by EPA of the Past Response Costs due under Section XIX of this Settlement Agreement and any Interest or Stipulated Penalties due for failure to pay Past Response Costs as required by Sections XIX and XVII of this Settlement Agreement and is conditioned upon the complete and satisfactory performance by Respondents of all obligations under this Settlement Agreement, including, but not limited to, payment of Past Response Costs and Future Response Costs pursuant to Section XIX. This covenant not to sue extends only to Respondents and does not extend to any other person.

XXI. RESERVATIONS OF RIGHTS BY EPA

88. Except as specifically provided in this Settlement Agreement, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Settlement Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

89. The covenant not to sue set forth in Paragraph 87 above

does not pertain to any matters other than those expressly identified therein. Except as otherwise expressly set forth in Paragraph 87 of this Settlement Agreement, EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Respondents with respect to all other matters, including, but not limited to:

- a. claims based on a failure by Respondents to meet a requirement of this Settlement Agreement;
- b. liability for costs not included within the definitions of Past Response Costs or Future Response Costs;
- c. liability for performance of response action other than the Work and the work performed by BASF pursuant to the BASF Settlement Agreement;
- d. criminal liability;
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and
- g. liability for unreimbursed costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site.

90. Work Takeover. In the event EPA determines that Respondents have ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in their performance of the Work, or are implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portion of the Work as EPA determines necessary. Respondents may invoke the procedures set forth in Section XVI (Dispute Resolution) to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. Costs incurred by EPA in performing the Work pursuant to this Paragraph shall be considered Future Response Costs that Respondent shall pay pursuant to Section XIX (Payment of Response Costs). Notwithstanding any other provision of this Settlement Agreement, EPA retains all authority and reserves all rights to

take any and all response actions authorized by law.

XXII. COVENANT NOT TO SUE BY RESPONDENTS

91. Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Past Response Costs, Future Response Costs, or this Settlement Agreement, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of the Work or arising out of the response actions for which the Past Response Costs or Future Response Costs have or will be incurred, including any claim under the United States Constitution, the New Jersey State Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Work or payment of Past Response Costs or Future Response Costs.

92. These covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 89(b), (c), and (e) - (g), but only to the extent that Respondents' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

93. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

XXIII. OTHER CLAIMS

94. By issuance of this Settlement Agreement, the United

States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents.

95. Except as expressly provided in Section XX (Covenant Not to Sue by EPA), nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Respondents or any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

96. No action or decision by EPA pursuant to this Settlement Agreement shall give rise to any right to judicial review except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XXIV. CONTRIBUTION PROTECTION

97. The Parties agree that Respondents are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement are the Work, and payment of Past Response Costs and Future Response Costs. Nothing in this Settlement Agreement precludes the United States or Respondents from asserting any claims, causes of action, or demands against any person not parties to this Settlement Agreement for indemnification, contribution, or cost recovery.

XXV. INDEMNIFICATION

98. Respondents shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action arising from, or on account of negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition, Respondents agree to pay the United States all costs incurred by the United States, including but not limited to attorneys fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Respondents,

their officers, directors, employees, agents, contractors, subcontractors and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondents in carrying out activities pursuant to this Settlement Agreement. Neither Respondents nor any such contractor shall be considered an agent of the United States.

99. The United States shall give Respondents notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondents prior to settling such claim.

100. Respondents waive all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between Respondents and any person for performance of Work on or relating to the Site. In addition, Respondents shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondents and any person for performance of Work on or relating to the Site.

XXVI. INSURANCE

101. At least 30 days prior to commencing any On-Site Work under this Settlement Agreement, Respondents shall secure, and shall maintain for the duration of this Settlement Agreement, comprehensive general liability insurance and automobile insurance with limits of \$5 million, combined single limit, naming the EPA as an additional insured. Within the same period, Respondents shall provide EPA with certificates of such insurance and on request shall provide EPA a copy of each insurance policy. Respondents shall submit such certificates each year on the anniversary of the Effective Date. In addition, for the duration of the Settlement Agreement, Respondents shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondents in furtherance of this Settlement Agreement. If Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or

all of the same risks but in an equal or lesser amount, then Respondents need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XXVII. FINANCIAL ASSURANCE

102. Within 30 days of the Effective Date, Respondents shall establish and maintain financial security for the benefit of EPA in the amount of \$500,000 in one or more of the following forms, in order to secure the full and final completion of Work by Respondents:

a. a surety bond unconditionally guaranteeing payment and/or performance of the Work;

b. one or more irrevocable letters of credit, payable to or at the direction of EPA, issued by financial institution(s) acceptable in all respects to EPA equaling the total estimated cost of the Work;

c. a trust fund administered by a trustee acceptable in all respects to EPA;

d. a policy of insurance issued by an insurance carrier acceptable in all respects to EPA, which ensures the payment and/or performance of the Work;

e. a corporate guarantee to perform the Work provided by one or more parent corporations or subsidiaries of the Respondents, or by one or more unrelated corporations that have a substantial business relationship with Respondents; including a demonstration that any such company satisfies the financial test requirements of 40 C.F.R. Part 264.143(f); and/or

f. a corporate guarantee to perform the Work by the Respondents, including a demonstration that the Respondents satisfy the requirements of 40 C.F.R. Part 264.143(f).

103. Any and all financial assurance instruments provided pursuant to this Section shall be in form and substance satisfactory to EPA, determined in EPA's sole discretion. In the event that EPA determines at any time that the financial assurances provided pursuant to this Section (including, without limitation, the instrument(s) evidencing such assurances) are

inadequate, Respondents shall, within 30 days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 102, above. In addition, if at any time EPA notifies Respondents that the anticipated cost of completing the Work has increased, then, within 30 days of such notification, Respondents shall obtain and present to EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Respondents' inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Settlement Agreement.

104. If Respondents seek to ensure completion of the Work through a guarantee pursuant to Subparagraph 102.e. or 102.f. of this Settlement Agreement, Respondents shall (i) demonstrate to EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f); and (ii) resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of submission of the initial guarantee, to EPA. For the purposes of this Settlement Agreement, wherever 40 C.F.R. Part 264.143(f) references "sum of current closure and post-closure costs estimates and the current plugging and abandonment costs estimates," the current cost estimate of \$500,000 for the Work at the Site shall be used in relevant financial test calculations.

105. If, after the Effective Date, Respondents can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 102 of this Section, Respondents may, on any anniversary date of the Effective Date, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Respondents shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security after receiving written approval from EPA. In the event of a dispute, Respondents may seek dispute resolution pursuant to Section XVI (Dispute Resolution). Respondents may reduce the amount of security in accordance with EPA's written decision resolving the dispute.

106. Respondents may change the form of financial assurance provided under this Section at any time, upon notice to and prior written approval by EPA, provided that EPA determines that the new form of assurance meets the requirements of this Section. In the

event of a dispute, Respondents may change the form of the financial assurance only in accordance with the written decision resolving the dispute.

XXVIII. INTEGRATION/APPENDICES

107. This Settlement Agreement and its appendices and any deliverables, technical memoranda, specifications, schedules, documents, plans, reports (other than progress reports), etc. that will be developed pursuant to this Settlement Agreement and become incorporated into and enforceable under this Settlement Agreement constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement:

"Appendix A" is the SOW.

"Appendix B is the Map of the Site.

XXIX. ADMINISTRATIVE RECORD

108. EPA will determine the contents of the administrative record file for selection of the remedial action. Respondents shall submit to EPA documents developed during the course of the RI/FS upon which selection of the response action may be based. Upon request of EPA, Respondents shall provide copies of plans, task memoranda for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports and other reports. Upon request of EPA, Respondents shall additionally submit any previous studies conducted under state, local or other federal authorities relating to selection of the response action, and all communications between Respondents and state, local or other federal authorities concerning selection of the response action. At EPA's discretion, Respondents shall establish a community information repository at or near the Site, to house one copy of the administrative record.

XXX. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

109. After issuance, this Settlement Agreement shall be effective on the date that a fully executed copy of said

Settlement Agreement is received by Jeffrey M. Casaletto, Esquire ("Effective Date").

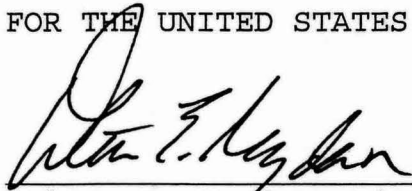
110. This Settlement Agreement may be amended by mutual agreement of EPA and Respondents. Amendments shall be in writing and shall be effective when signed by EPA. EPA Project Coordinators do not have the authority to sign amendments to the Settlement Agreement.

111. No informal advice, guidance, suggestion, or comment by the EPA Project Coordinator or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Respondents shall relieve Respondents of their obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

XXXI. NOTICE OF COMPLETION OF WORK

112. When EPA determines that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations required by this Settlement Agreement, including but not limited to, retention of records and payment of Future Response Costs, EPA will provide written notice to Respondents. If EPA determines that any such Work has not been completed in accordance with this Settlement Agreement, EPA will notify Respondents, provide a list of the deficiencies, and require that Respondents modify the RI/FS Work Plan if appropriate in order to correct such deficiencies, in accordance with Paragraph 40 (Modification of the Work Plan). Failure by Respondents to implement the approved modified RI/FS Work Plan shall be a violation of this Settlement Agreement.

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



DATE: Nov. 2, 2015

Walter E. Muggdan, Director
Emergency and Remedial Response Division
U.S. Environmental Protection Agency
Region II

FOR THE Respondent

CONSENT

The Respondent identified below has had an opportunity to confer with EPA regarding this Settlement Agreement. Respondent hereby consents to the issuance of this Settlement Agreement and to its terms. The individual executing this Settlement Agreement on behalf of Respondent certifies under penalty of perjury under the laws of the United States and of the State of Respondent's incorporation that he or she is fully and legally authorized to agree to the terms and conditions of this Settlement Agreement and to bind Respondent thereto.

Madison Industries, Inc.
Name of Respondent


Signature

10/22/15
Date

BRUCE BZURA
Printed name of Signatory

PRESIDENT
Title of Signatory

FOR THE Respondent

CONSENT

The Respondent identified below has had an opportunity to confer with EPA regarding this Settlement Agreement. Respondent hereby consents to the issuance of this Settlement Agreement and to its terms. The individual executing this Settlement Agreement on behalf of Respondent certifies under penalty of perjury under the laws of the United States and of the State of Respondent's incorporation that he or she is fully and legally authorized to agree to the terms and conditions of this Settlement Agreement and to bind Respondent thereto.

Old Bridge Chemicals, Inc.
Name of Respondent


Signature

10/22/15
Date

BRUCE BZURA
Printed name of Signatory

PRESIDENT
Title of Signatory

FOR THE Respondent

CONSENT

The Respondent identified below has had an opportunity to confer with EPA regarding this Settlement Agreement. Respondent hereby consents to the issuance of this Settlement Agreement and to its terms. The individual executing this Settlement Agreement on behalf of Respondent certifies under penalty of perjury under the laws of the United States and of the State of Respondent's incorporation that he or she is fully and legally authorized to agree to the terms and conditions of this Settlement Agreement and to bind Respondent thereto.

Arnet Realty Company
Name of Respondent


Signature

10/22/15
Date

BRUCE BZURA
Printed name of Signatory

MEMBER
Title of Signatory